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24 OCT 2007

GUY McCLUNG
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5315-B F.M.1960 ROAD WEST
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In re Application of KRIJNEN et al
U.S. Application No.: 10/537,638
PCT Application No.: PCT/GB2004/003431
Int. Filing Date: 09 August 2004
Priority Date Claimed: 13 December 2003
Attorney Docket No.: DQ 015 PCT/US
For: APPARATUS AND METHOD FOR
FACILITATING HANDLING PIPE

: DECISION

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181".

BACKGROUND

On 09 August 2004, applicant filed international application PCT/GB2004/003431, which claimed priority of an earlier United States application filed 13 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 June 2005. the thirty-month period for paying the basic national fee in the United States expired on 12 June 2006.

On 06 June 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 February 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 March 2006, applicant purportedly filed an executed declaration via facsimile.

On 20 March 2007, applicant filed a petition under 37 CFR 1.181.

On 08 August 2007, this Office mailed a decision dismissing the 20 March 2007 petition.

On 20 August 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 09 March 2006 is not present.

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, a statement which attests on a personal knowledge basis that the declaration was transmitted by facsimile on 09 March 2006 has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application is being forwarded to the DO/EO/US for preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration is improper.¹

Bryan Lin
Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

¹ The declaration consists of a single page 1 and two of page 2. It is not acceptable to combine pages from different documents into a single declaration. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each inventor executes at least one of the multiple complete declarations.